

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:18-CR-00025-RJC-DCK

USA

v.

TAMMY DENISE SMITH

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ORDER

**THIS MATTER** is before the Court upon a motion by the defendant pro se for an amended sentence, pursuant to 18 U.S.C. § 3582. (Doc. No. 26).

The defendant asserts that her sentence for violating 18 U.S.C. § 924(c) is no longer valid in light of United States v. Simms, 914 F.3d 229 (4th Cir. 2019) (en banc). Thus, the defendant is not seeking a modification of her sentence under § 3582, but rather attacking her conviction. Such a claim must be raised pursuant to 28 U.S.C. § 2255.

**IT IS, THEREFORE, ORDERED** that the defendant's motion, (Doc. No. 26), is **DENIED** without prejudice. The Clerk of Court is directed to send the defendant a copy of the Pro Se Prisoner 2255 Motion to Vacate Form at the place of her incarceration.

Signed: June 25, 2019



Robert J. Conrad, Jr.  
United States District Judge

